

MINUTES
Texas Real Estate Commission
August 14, 2000
Conference Room 235, Texas Real Estate Commission
Austin, Texas

Chairman Michael Brodie called the regularly scheduled meeting of the Texas Real Estate Commission to order at 9:00 a.m., Monday, August 14, 2000. In addition to Chairman Brodie, members present were Jay Brummett, Lawrence Jokl, Deanna Mayfield, James Austin and Kay Sutton.

Staff present were: Wayne Thorburn, Administrator; Sabrina Hassumani, Assistant Administrator; Mark Moseley, General Counsel; Alan Waters, Director of Staff Services; Loretta DeHay, Director of Enforcement; Gwen Jackson, manager of the Education Section; Michelle Bowens, manager of the Licensing Section; Lorie Deanda manager of the Communications Section; and Patricia Holder, Executive Assistant.

After calling the meeting to order, Chairman Brodie led the attendees in the pledge of allegiance and Mr. Brummett led the Texas pledge of allegiance.

Chairman Brodie moved to agenda item two, minutes of June 22, 2000, Commission meeting. Ms. Sutton, seconded by Mr. Brummett, moved to approve the minutes as submitted. The motion was adopted by unanimous vote.

Mr. Brodie moved to agenda item three, monthly staff reports; committee reports.

Mr. Thorburn announced that interviews were being held for the position of Director of Licensing and Education. Mr. Thorburn introduced Ms. Gwen Jackson as the new manager of the Education Section. Ms. Jackson has been a TREC employee since 1981 and has a background in the education field. Mr. Thorburn reported on the ARELLO Conference held in Austin in June. He thanked Ron Servis and Deborah Kennedy for their work on the conference which helped make it such a success. Mr. Thorburn also thanked the Commissioners for their help with and support of TREC's sponsoring the conference. Chairman Brodie and Mr. Brummett stated that they had received letters and telephone calls congratulating them on an interesting and well-organized conference.

Mr. Thorburn announced that TREC, in conjunction with the Real Estate Center at Texas A&M was in the process of finalizing the preparation of a third video. He announced that there would be auditions in the middle of September and production should start around the end of September.

Ms. Hassumani reported that there had been two in-house training sessions since the last commission meeting. She reported that the agency had appeared before the House Appropriations Subcommittee. Ms. Hassumani also reported that there were five vacancies in the agency.

Ms. Hassumani presented the report for the Licensing and Education division. She referred to the L1, L2 and L3 reports which contained information regarding an increase in applications received, the number of current licensees and the number of examinations that have been taken to date this fiscal year.

Ms. DeHay referred to the Average Time for Complaint Resolution Report which was on the dias. The average number of days open for files in June was 78 days, 87 days for July, 76 days for the monthly

average and 86 days for the yearly average. She stated that currently there was an attorney position open in Enforcement.

Mr. Waters reported that the internal auditor had been selected to comply with the Internal Audit Act. The auditor selected was Garza, Gonzalez and Associates and their report should be ready by the end of the month. He also reported that the Comptroller of Public Accounts Claims Division would be doing a routine post payment audit and that an automatic call distribution feature had been placed on the telephone system. The call distribution feature will allow calls to be answered in the order they are received.

Mr. Bridge reported that the former web programmer, Paul Simpson, had returned to TREC. Mr. Bridge introduced the programmers in Information Services, Lyndon Clements, James Coffman and Paul Simpson, who are responsible for developing the on line license renewal system. Mr. Bridge presented a demonstration of renewing a broker's license on line paying by credit card.

The Chairman moved to agenda item twelve, discussion and possible action to approve Biennial Operating Plan. Mr. Bridge presented the agenda item for discussion and possible action. After discussion, Mr. Jokl, seconded by Mr. Austin, moved to approve the plan as presented. The motion was adopted by unanimous vote.

Mr. Brodie moved to agenda item four, general comments from visitors. Comments were offered by Ron Walker, general counsel, Texas Association of Realtors.

Chairman Brodie moved to agenda item five, discussion and possible action to adopt repeal or amendments of 22 TAC §§535.131-535.133, 535.141, 535.143-535.161, 535.171, 535.181, 535.191 and 535.192, concerning provisions of The Real Estate License Act.

Mr. Moseley presented agenda item five for discussion and possible action. There was discussion concerning the adoption of §535.141(e), regarding staff adding a respondent to a complaint. Ms. Sutton, seconded Ms. Mayfield, moved to adopt the amendments with the exception of the changes to §535.141(e). Comments were offered by Mr. Brummett, Ms. Sutton, Chairman Brodie and Ms. DeHay. Mr. Moseley asked that the effective date be stated as October 1, 2000. Ms. Sutton added that date to her motion. The Chairman called for a vote on the motion. The motion was adopted by unanimous vote.

Mr. Moseley presented agenda item six (a), discussion and possible action to propose amendments or repeal of 22 TAC §535.400, §535.403, concerning registered easement or right-of-way agents. After discussion, Mr. Brummett, seconded by Ms. Mayfield, moved to propose the amendments or repeals as presented. The motion was adopted by unanimous vote.

Mr. Moseley presented agenda item six (b), discussion and possible action to propose amendments or repeal of 22 TAC §§535.205-535.226, concerning inspectors. After discussion Ms. Sutton, seconded by Ms. Mayfield, moved to propose the amendments or repeals as presented. The motion was adopted by unanimous vote.

Mr. Brodie moved to agenda item seven, discussion and possible action to adopt the review of 22 TAC §§535.131-535.192, concerning provisions of The Real Estate License Act, as modified by repeals and amendments. Mr. Moseley presented agenda item seven for discussion and possible action. Mr. Austin,

seconded by Mr. Brummett, moved to adopt the review as presented. The motion was adopted by unanimous vote.

Mr. Brodie moved to agenda item eight, executive session to discuss pending litigation pursuant to Texas Government Code, § 551.071, and, if necessary, to receive legal advice from general counsel on posted agenda items under Texas Government Code, §551.071(2). The executive session began at 10:04 a.m.

The meeting was called back to order at 10:20 a.m. by Chairman Brodie. Mr. Brodie moved to agenda item nine, discussion and possible action to authorize payments from recovery funds.

RF 94-042 The Estate of William L. Wenner vs. Lomax Richard Segura, in the amount of \$45,000 as actual damages. Mr. Jokl, seconded by Ms. Mayfield, moved approval. The motion was adopted by unanimous vote.

RF 99-017 Elizabeth and Jaime Avila vs. Rhea Ann Hankins, in the amount of \$15,000 as actual damages. Mr. Brummett, seconded by Mr. Austin, moved approval. The motion was adopted by unanimous vote.

The Chairman moved to agenda item ten, discussion and possible action to accredit The Real Estate School, Champions School of Real Estate, and Capital Real Estate Training; discussion and possible action to delegate authority to staff regarding school applications. Ms. Hassumani presented the item for discussion and possible action. Mr. Brummett, seconded by Ms. Sutton, moved to approve the accreditation of the schools presented. The motion was adopted by unanimous vote. After discussion, Ms. Sutton, seconded by Mr. Austin, moved to authorize staff to approve or disapprove applications for schools accredited by TREC; should an application be disapproved, an appeal of that decision may be brought before the Commission. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item eleven, discussion and possible action to approve Legislative Appropriations Request. Mr. Waters presented the agenda item for discussion and possible action. After discussion, Mr. Jokl, seconded by Mr. Austin, moved to approve the Legislative Appropriations Request as presented. The motion was adopted by unanimous vote.

Mr. Brodie moved to agenda item thirteen, consideration of complaint information. Ms. DeHay requested authorization for the Enforcement Division to proceed with investigations on the following persons for failure to provide information in connection with their license: Harold Richard Elliott; Beverly Ann Forbus; Andrea N. Grimm; Molly Anne Harris; Beverly Anne Kennedy; Diona Lynne Nace and Gregory G. Waller. Ms. Sutton, seconded by Mr. Brummett, moved to authorize investigations as requested. The motion was adopted by unanimous vote.

Ms. DeHay requested authorization for the Enforcement Division to proceed with investigations on the following persons for failure to complete MCE hours or pay the \$200 fee as required by §535.92(h): Stacy Leigh Collins; Christopher Marion Hipps; Mary P. Karns; Sally Wyndham Macadoo; Homer Gene Turbeville; Stanley Rudy Woelfel and Michael Stedman Wyatt. Ms. Sutton, seconded by Mr. Austin, moved to authorize investigations as requested. The motion was adopted by unanimous vote.

Ms. DeHay requested authorization to initiate investigations on the following people for alleged violations of sections 15(a)(6)(F) and (S) of the act, associating with or sharing a commission or fee with an unlicensed person: Peggy Tuthill Realtors, Inc., Mark William Willis, Designated Officer; Alvin Diaz; James Neal Huckaby; Keller Williams Realtors, Inc., and Gary Wayne Keller, Designated Officer. Mr. Brummett, seconded by Ms. Sutton, moved to authorize investigations as requested. Chairman Brodie recused himself from voting on this particular item. The motion was adopted by a unanimous vote of the remaining members.

Ms. DeHay requested authorization to initiate investigations on the following people for acting negligently or incompetently in violation of section 15(a)(6)(W): Eugene Clarence Guernsey and Manuel R. Saucedo. Mr. Austin, seconded by Mr. Brummett, moved to authorize investigations as requested. The motion was adopted by unanimous vote.

The Chairman moved to agenda item fourteen, Motion for Rehearing in the Matter of Harrell Crandall Rhome, Hearing No. 00-112-992438 and Motion to Revoke Probation in the Matter of Nathaniel Gordon, Hearing No. 00-105-000889.

Mr. Brodie called for the Motion for Rehearing in the Matter of Harrell Crandall Rhome, Hearing No. 00-112-992438. Mr. Rhome did not appear. Sharon Rector, staff attorney, appeared for the Enforcement division and presented its response to the motion for extension of time for a motion for rehearing. Ms. Rector presented the Enforcement division's response to the motion to modify order. The motion for rehearing was overruled unanimously.

Chairman Brodie called for the Motion to Revoke Probation in the Matter of Nathaniel Gordon, Hearing No. 00-105-000889. Mr. Gordon appeared without counsel; Ms. DeHay appeared for the Enforcement Division. After discussion, the Chairman called for a vote. Mr. Brummett and Ms. Mayfield voted for the motion. Ms. Sutton, Chairman Brodie, Mr. Jokl and Mr. Austin voted against the motion. The motion was overruled.

Mr. Brodie reported that he, Mr. Jokl and Mr. Thorburn would be attending the AMPI meeting in Leon, Mexico, during the first part of September.

The next regularly scheduled meetings of the Commission will be on September 25, 2000 and November 6, 2000. The meeting was adjourned at 11:10 a.m.

APPROVED this the 25th day of September, A.D., 2000.

Chairman

ATTEST: _____
Administrator